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SENATE BILL 545

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Daniel A. Ivey-Soto

AN ACT

RELATING TO VICTIMS OF CRIME; ENACTING THE CONFIDENTIAL
SUBSTITUTE ADDRESS ACT; CREATING THE CONFIDENTIAL SUBSTITUTE
ADDRESS PROGRAM FOR VICTIMS OF CERTAIN CRIMES; REPEALING
SECTION 40-13-11 NMSA 1978 (BEING LAWS 2007, CHAPTER 131,
SECTION 1).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 9 of this act may be cited as the "Confidential
Substitute Address Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Confidential Substitute Address Act:

A. "agency" means an agency of the state or of a
political subdivision of the state;

B. "applicant" means a person who submits an

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1 application to participate in the confidential substitute
2 address program;

3 C. "application assistant" means a person who works
4 or volunteers for a domestic violence or sexual assault program
5 and who assists in preparing an application for the
6 confidential substitute address program;

7 D. "confidential substitute address" means an
8 address designated for a participant by the secretary of state
9 pursuant to the Confidential Substitute Address Act;

10 E. "delivery address" means the address where an
11 applicant or a participant receives mail, and it may be the
12 same as the person's residential address;

13 F. "domestic violence" means "domestic abuse", as
14 defined in the Family Violence Protection Act;

15 G. "participant" means a person certified to
16 participate in the confidential substitute address program
17 pursuant to the Confidential Substitute Address Act;

18 H. "public record" means "public records", as
19 defined in the Inspection of Public Records Act; and

20 I. "residential address" means the street address
21 where an applicant or participant resides or will relocate.

22 SECTION 3. [NEW MATERIAL] CONFIDENTIAL SUBSTITUTE ADDRESS
23 PROGRAM--APPLICATION.--

24 A. The "confidential substitute address program" is
25 created in the office of the secretary of state to provide a

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1 process by which a victim of domestic violence may protect the
2 confidentiality of the victim's residential and delivery
3 addresses in public records.

4 B. An applicant, with the assistance of an
5 application assistant, shall submit an application to the
6 secretary of state on a form prescribed by the secretary of
7 state. The application assistant's signature shall serve as
8 recommendation that the applicant participate in the
9 confidential substitute address program.

10 C. An application shall be signed and dated by the
11 applicant and the application assistant and shall include:

12 (1) the applicant's name;

13 (2) the applicant's statement that the
14 applicant fears for the safety of the applicant, the
15 applicant's child or another person in the applicant's
16 household because of a threat of immediate or future harm;

17 (3) the applicant's statement that the
18 disclosure of the applicant's residential or delivery address
19 would endanger the applicant, the applicant's child or another
20 person in the applicant's household;

21 (4) the applicant's statement that the
22 applicant has confidentially relocated in the past ninety days
23 or will relocate within the state in the next ninety days;

24 (5) a designation of the secretary of state as
25 the applicant's agent for the purpose of receiving mail,

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1 deliveries and service of process, notice or demand;

2 (6) the applicant's residential and delivery
3 addresses, if different, the confidentiality of which the
4 applicant seeks to protect;

5 (7) the applicant's telephone number and email
6 address; and

7 (8) the applicant's statement under penalty of
8 perjury that the information contained in the application is
9 true.

10 SECTION 4. [NEW MATERIAL] SECRETARY OF STATE--DUTIES--
11 SERVICE ON PARTICIPANT.--

12 A. The secretary of state shall:

13 (1) certify applicants whose applications
14 comply with the requirements of the Confidential Substitute
15 Address Act to participate in the confidential substitute
16 address program; and

17 (2) with respect to each certified
18 participant:

19 (a) issue a confidential substitute
20 address identification card;

21 (b) designate a confidential substitute
22 address that shall be used in place of the participant's
23 residential or delivery address by state and local government
24 agencies;

25 (c) receive mail and deliveries sent to

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1 a participant's confidential substitute address and forward the
2 mail and deliveries to the participant's delivery address at no
3 charge to the participant;

4 (d) accept service of process, notice or
5 demand that is required or permitted by law to be served on the
6 participant and immediately forward the process, notice or
7 demand to the participant's delivery address at no charge to
8 the participant; and

9 (e) maintain records of the following
10 that are received and forwarded by the secretary of state: 1)
11 a participant's certified and registered mail; and 2) any
12 process, notice or demand that is served on a participant.

13 B. Service made pursuant to the provisions of this
14 section is perfected three days after it is accepted by the
15 secretary of state.

16 SECTION 5. [NEW MATERIAL] AGENCIES--USE OF CONFIDENTIAL
17 SUBSTITUTE ADDRESS--PUBLIC RECORDS.--

18 A. A participant shall:

19 (1) contact each agency that requests or uses
20 an address; and

21 (2) provide the agency with a copy of the
22 participant's confidential substitute address identification
23 card.

24 B. Agencies that receive copies of confidential
25 substitute address identification cards submitted pursuant to

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1 this section shall use the participant's confidential
2 substitute address for all purposes.

3 C. A school district shall use a participant's
4 confidential substitute address as the participant's address of
5 record and, if necessary, shall verify a student's enrollment
6 eligibility with the secretary of state.

7 D. A participant's residential or delivery address,
8 telephone number and email address that are maintained by an
9 agency are not public records and shall not be disclosed
10 pursuant to the Inspection of Public Records Act while a person
11 is a participant.

12 SECTION 6. [NEW MATERIAL] CHANGE OF PARTICIPANT NAME,
13 ADDRESS OR TELEPHONE NUMBER--REQUIREMENTS.--

14 A. A participant shall notify the secretary of
15 state within ten days of legally changing the participant's
16 name and shall provide the secretary of state with a certified
17 copy of documentation of the legal name change.

18 B. A participant shall notify the secretary of
19 state within ten days of a change to the participant's
20 residential address, delivery address, telephone number or
21 email address.

22 SECTION 7. [NEW MATERIAL] PARTICIPANT DECERTIFICATION.--

23 A. A participant shall be decertified from the
24 confidential substitute address program if:

- 25 (1) the participant submits a request to

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1 withdraw from the confidential substitute address program to
2 the secretary of the state;

3 (2) the participant fails to notify the
4 secretary of state of a legal name change or a change to the
5 participant's residential address, delivery address, telephone
6 number or email address; or

7 (3) mail that is forwarded by the secretary of
8 state to the participant's delivery address is returned as
9 undeliverable.

10 B. If the secretary of state determines that one or
11 more of the causes for decertification provided in Subsection A
12 of this section exists, the secretary of state shall send
13 notice of the participant's decertification to the
14 participant's delivery and residential addresses and shall
15 attempt to notify the participant by telephone and email. The
16 participant shall be given ten days from the date of
17 decertification to appeal the decertification.

18 C. A person who is decertified from the
19 confidential substitute address program shall not continue to
20 use the person's confidential substitute address.

21 D. Beginning thirty days after a person is
22 decertified, the secretary of state shall return that person's
23 mail and deliveries to the sender.

24 E. For six months after a participant has been
25 decertified, the secretary of state shall forward mail and

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1 deliveries to an address provided by the former participant.
2 Upon receipt of mail and deliveries pursuant to this subsection
3 a former participant shall provide an updated address to the
4 sender.

5 SECTION 8. [NEW MATERIAL] PARTICIPANT RECORDS--
6 CONFIDENTIALITY--DISCLOSURE PROHIBITED.--

7 A. The secretary of state and an agency shall not
8 disclose the residential address, delivery address, telephone
9 number or email address of a participant unless the information
10 is required to be disclosed pursuant to a court order. A
11 person or agency that receives a participant's residential
12 address, delivery address, telephone number or email address
13 pursuant to a court order shall not in turn disclose that
14 information unless pursuant to a court order or unless the
15 person has been decertified.

16 B. The secretary of state shall maintain the
17 confidentiality of all records relating to an applicant for or
18 participant in the confidential substitute address program
19 while the person is a participant and shall:

- 20 (1) store all tangible copies of program
21 records in locked equipment;
- 22 (2) store all electronic copies of program
23 records in a password-protected system;
- 24 (3) restrict access to all program records to
25 secretary of state staff persons who are approved to access the

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1 records as provided in this section; and

2 (4) release program records only on a court's
3 order.

4 C. The secretary of state shall establish a system
5 for restricting access to program records to approved staff
6 persons. Before being approved and granted access to program
7 records, the staff person shall:

8 (1) submit to a criminal background check
9 performed by the department of public safety;

10 (2) not have a record of a sex offense, felony
11 or a misdemeanor violation related to domestic violence or
12 sexual assault on the results of the person's criminal
13 background check; and

14 (3) complete forty hours of training,
15 including a domestic violence training course provided by the
16 children, youth and families department and sexual assault
17 training provided by the department of health or the crime
18 victims reparation commission or its successor.

19 SECTION 9. [NEW MATERIAL] RULES.--The secretary of state
20 shall promulgate rules, including rules regarding records and
21 confidentiality retention, to implement the provisions of the
22 Confidential Substitute Address Act.

23 SECTION 10. Section 14-2-1 NMSA 1978 (being Laws 1947,
24 Chapter 130, Section 1, as amended) is amended to read:

25 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--
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1 A. Every person has a right to inspect public
2 records of this state except:

3 (1) records pertaining to physical or mental
4 examinations and medical treatment of persons confined to an
5 institution;

6 (2) letters of reference concerning
7 employment, licensing or permits;

8 (3) letters or memoranda that are matters of
9 opinion in personnel files or students' cumulative files;

10 (4) law enforcement records that reveal
11 confidential sources, methods, information or individuals
12 accused but not charged with a crime. Law enforcement records
13 include evidence in any form received or compiled in connection
14 with a criminal investigation or prosecution by a law
15 enforcement or prosecuting agency, including inactive matters
16 or closed investigations to the extent that they contain the
17 information listed in this paragraph;

18 (5) as provided by the Confidential Materials
19 Act;

20 (6) trade secrets, attorney-client privileged
21 information and long-range or strategic business plans of
22 public hospitals discussed in a properly closed meeting;

23 (7) tactical response plans or procedures
24 prepared for or by the state or a political subdivision of the
25 state, the publication of which could reveal specific

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1 vulnerabilities, risk assessments or tactical emergency
2 security procedures that could be used to facilitate the
3 planning or execution of a terrorist attack;

4 (8) as provided by the Confidential Substitute
5 Address Act; and

6 [~~(8)~~] (9) as otherwise provided by federal law
7 or state statute.

8 B. Protected personal identifier information
9 contained in public records may be redacted by a public body
10 before inspection or copying of a record. The presence of
11 protected personal identifier information on a record does not
12 exempt the record from inspection. Unredacted records that
13 contain protected personal identifier information shall not be
14 made available on publicly accessible web sites operated by or
15 managed on behalf of a public body."

16 SECTION 11. REPEAL.--Section 40-13-11 NMSA 1978 (being
17 Laws 2007, Chapter 131, Section 1) is repealed.

18 SECTION 12. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2015.

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